

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ROBERT A. CASTAPHENY,	)	
	)	Case No. 2:09-cv-0424
Plaintiff,	)	Electronic Filing
	)	
v.	)	Judge David Stewart Cercone
	)	Magistrate Judge Lisa Pupo Lenihan
WEST VIRGINIA STATE POLICE,	)	
LOGAN BCI, SARGENT J.P. FRYE,	)	Doc. Nos. 27 & 30
SARGENT B.M. BROWN, and	)	
SENIOR TROOPER C.R. HOLBERT,	)	
	)	
Defendants.	)	

**MEMORANDUM ORDER**

The complaint in the above captioned case was received by the Clerk of Court on April 14, 2009, and was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. §636(b)(1), and Local Rules of Court 72.C and 72.D.

The Magistrate Judge's Report and Recommendation (Doc. No. 30), filed on April 15, 2010, recommended that the Motion to Dismiss filed by Defendants (Doc. No. 27), be denied without prejudice, and that pursuant to 28 U.S.C. § 1406(a), in the interests of justice, this case be transferred forthwith to the Southern District of West Virginia, Charleston Division. Service was made on all counsel of record and Plaintiff, *pro se*, at SCI Houtzdale, P.O. Box 1000, Houtzdale, PA 16698. The parties were informed that in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.D.2 of the Local Rules of Court, that they had fourteen (14) days to file any objections. No objections were filed to the Report and Recommendation.

After review of the pleadings and documents in the case, together with the Report and Recommendation, the following Order is entered:

**AND NOW**, this 10<sup>th</sup> day of May, 2010,

**IT IS HEREBY ORDERED** that the Motion to Dismiss filed by Defendants (Doc No. 27), is **DENIED WITHOUT PREJUDICE**.

**IT IS FURTHER ORDERED** that pursuant to 28 U.S.C. § 1406(a), in the interests of justice, this case shall be transferred to the Southern District of West Virginia, Charleston Division, **FORTHWITH**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (Doc. No. 30) of Magistrate Judge Lenihan, dated April 15, 2010, is adopted as the opinion of the Court.



DAVID STEWART CERONE  
United States District Judge

cc: All Counsel of Record  
*Via Electronic Mail*

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